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SUPERIOR COURT  
2011 AUG -8 PM 4:24 ✓  
SANDRA K HARKHAM, CLERK  
BY: K. GREGORIO

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

CAUSE NO. P1300CR201001325

REPLY RE: RULE 9.3

Assigned to Hon. Warren R. Darrow  
Division PTB

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy, Jeffrey Paupore, respectfully submits its reply to Defendant's Rule 9.3 response.

The Defendant is charged with committing a fraudulent scheme, a class 2 felony against the Estate of Virginia Carol Kennedy. The facts have been repeated in other pleadings and will not be repeated in depth here. Suffice it to say, the Defendant, after having his claim for benefits in excess of \$750,000.00 denied by the Hartford Insurance Company, manipulated attorneys and key family members to assist him in stealing the monies from the Carol Kennedy Testamentary Trust. Defendant's plan to benefit from the disclaimed insurance proceeds was accomplished by using John Sears, Janice DeMocker, John DeMocker and Jim DeMocker. These individuals put themselves into this case as witnesses with full knowledge of what they were doing when they were assisting the Defendant to commit these illegal acts. Their actions make them material witnesses in this case.

Sequestration of witnesses is not discretionary under this rule governing exclusion of witnesses when requested by one of the parties. *State v Navarrette* (App. 1977) 115 Ariz. 574, 566 P.2d 1050.

1 Defendant's opinion that invoking the Rule pre-trial is premature is not the law. In *State v*  
2 *Meek*, 9 Ariz. App. 140 (1969), the court held a magistrate's invocation of the Rule at preliminary  
3 examination was constitutional. In this case the State requests invocation of the Rule 30 days  
4 from the start of trial is within the scope and authority of Rule 9.3 and Rule 615 of the Arizona  
Rules of Evidence.

5 The Defendant filed a correction calling it a "typographical error" in his response  
6 regarding investigator Mike Sechez' presence at pretrial interviews. This was not a  
7 "typographical error" but a misstatement of the facts. The Defendant misstated another significant  
8 fact in his motion by saying that Ms. Girard admitted she talked with Barbara O'Non. According  
9 to the transcript of Renee Girard's most recent interview this exchange took place:

10 WILLIAMS: Did you know Barb O'Non?

11 GIRARD: No.

12 WILLIAMS: Did you ever have a conversation with her?

13 GIRARD: No

14 **Reporter's transcript 06/21/11 P13 L18-22.**

### 15 **EXCLUSION IS MANDATORY UNDER THE RULE**

16 Rule 615 of the Arizona Rules of Evidence governs the long recognized practice of  
17 excluding witnesses from the courtroom during trial proceedings in order to prevent collusion and  
18 to discourage fabrication or tailoring of testimony. Once requested by a party, by the terms of  
19 Rule 615, exclusion is mandatory. See generally, *State v Perkins*, 141 Ariz. 278, 686 P.2d, 48  
20 (1984); *State v Roberts*, 138 Ariz. 230, 234, 673 P.2d 974, 978 (Ct. App. Div. 2 1983); and *State*  
21 *v Reyes*, 146 Ariz. 131, 704 P.2d 261 (Ct. App. Div. 2 1985). Likewise, a request under Rule 9.3  
22 is mandatory upon request by one of the parties. *State v Roberts*, 126 Ariz. 92, 94, 612 P.2d 1055  
(1980). There is no general rule that exclusion must be demanded at a particular time. *State v*  
*Edwards*. 154 Ariz. 8, 14 (Ct. App. Div. 1 (1986), 739 P.2d 1325.

23 Pursuant to the Rule, witnesses will be precluded from talking about the case with other  
24 witnesses. The rule does not prevent a witness from speaking with defense counsel or the State.

25 The parties have the right to a fair trial. Excluding witnesses in order to prevent collusion  
26 and to discourage fabrication or tailoring of testimony insures this right will be honored.

**Office of the Yavapai County Attorney**

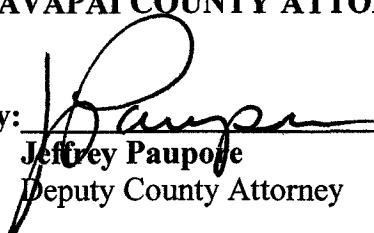
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1 **RESPECTFULLY SUBMITTED** this 8<sup>th</sup> day of August, 2011.

2 **Sheila Sullivan Polk**  
3 **YAVAPAI COUNTY ATTORNEY**

4 By:   
5 **Jeffrey Paupore**  
6 **Deputy County Attorney**

7 **COPY** of the foregoing **Emailed** this  
8 8<sup>th</sup> day of August, 2011, to:

9 Honorable Warren R. Darrow  
10 Division PTB  
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